IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9889 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CHAIRMAN SAGITA RANIP CHS LTD. - Petitioner
Versus
TORRENT POWER A.E.C. LTD. & 1 - Respondents

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Appearance :
MRS NISHA M PARIKH for Petitioner:MR JAIMIN B TRIVEDI for Petitioner
NOTICE NOT RECD BACK for Respondent(s) : 1 - 2.
DS AFF.NOT FILED (N) for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 27/07/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Leave to amend the cause-title is granted.

Rule. The record shows that both the respondents are duly served with notice for final disposal of the petition, but, none of them has appeared through Lawyer or constituted agent, nor filed affidavit-in-reply controverting the averments made in the petition.

2. By filing this petition under Article 226 of the Constitution, the petitioner i.e. Mr.Arvindbhai Baria, who is Chairman of Sangita (Ranip) Co.op.Housing Society Ltd., G.S.T.Chenpur Road, Ranip, Ahmedabad, has prayed to issue an appropriate writ or order directing the respondent No.1 i.e. Torrent Power AEC Ltd., to grant electricity connection to three row-houses constructed by the petitioner. The petitioner has further prayed to direct the respondent No.2 i.e. Ahmedabad Urban Development Authority to grant Building Use Permission to the petitioner so as to enable the allottees of the row-houses to use the same.

3. The petitioner i.e. Mr.Arvindbhai Baria is the

Chairman of Sangita (Ranip) Co.op.Housing Society Ltd. The Secretary of the Society applied to the respondent No.2 i.e. Ahmedabad Urban Development Authority for obtaining permission to develop the land belonged to the society. The record shows that development permission was granted by the respondent No.2 by order dated June 6, 2005. From the averments made in Para-2 of the Additional-Affidavit, it is evident that the petitioner has constructed three row-houses for residential purpose pursuant to the development permission and in accordance with rules and regulations. After construction of the row-houses, it was necessary for the petitioner to obtain Building Use Permission and thereafter to apply to the respondent No.1 for supply of electricity connection. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 for supply of electricity connection. The said request has been turned down by the respondent No.1 by communication dated April 24, 2006. The said communication addressed by the General Manager of the respondent No.1 to the petitioner makes it evident that electricity connection is not made available for

want of Building Use permission. By the said communication, the petitioner has been called upto to produce Building Use Permission before the respondent No.1, or in the alternative, conditional order of the High Court. Under the circumstances, the petitioner has filed the instant petition and claimed reliefs to which reference is made earlier.

4. This petition was placed for admission hearing before the Division Bench comprising J.R.Vora & M.D.Shah,JJ., on May 4, 2005 and after hearing the learned counsel for the petitioner, notice for final disposal of the petition was issued making it returnable on May 16, 2006. As observed earlier, though the respondents are duly served, none of them has appeared through lawyer or constituted agent, nor contested the petition. Having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if following directions are issued:

(1) The petitioner will approach the Ahmedabad Urban Development Authority for obtaining Building Use Permission within thirty days

from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Urban Development Authority is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(3) The petitioner shall apply to the respondent No.1., i.e. Torrent Power AEC Limited, for providing electricity connection to three row-houses constructed by it with a proper application/form/format and by paying charges within a week.

(4) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to three row-houses constructed by the petitioner within one month on usual terms and conditions.

(5) In case the Ahmedabad Urban Development Authority is not approached by the

petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Urban Development Authority shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to three row-houses constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the three row-houses constructed by the petitioner within a period of fifteen days.

(6) In case the Ahmedabad Urban Development Authority does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to three row-houses constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to three row-houses constructed by the petitioner.

(7) The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Urban Development Authority, the petitioner will have no objection to disconnection of electricity supply provided to three row-houses constructed by it. This Undertaking shall be filed along with the application/form/format meant for the purpose.

Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)